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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT
11
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 KELLY JAMES MORROW,

17 Defendant.

No. CR 15-341-SJO

GOVERNMENT'S SENTENCING POSITION

Hearing Date: July 18, 2016

Hearing Time: 9:00 a.m.

1 Plaintiff United States of America, by and through its counsel
2 of record, the United States Attorney for the Central District of
3 California and Assistant United States Attorney Robyn K. Bacon,
4 hereby files its Sentencing Position for defendant Kelly James
5 Morrow.

6 This sentencing position is based upon the attached memorandum
7 of points and authorities, the files and records in this case, and
8 such further evidence and argument as the court may permit.

9
10 Dated: July 14, 2016

Respectfully submitted,

11 EILEEN M. DECKER
12 United States Attorney

13 LAWRENCE S. MIDDLETON
14 Assistant United States Attorney
Chief, Criminal Division

15 /s/
16 ROBYN K. BACON
Assistant United States Attorney

17 Attorneys for Plaintiff
18 UNITED STATES OF AMERICA
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MEMORANDUM OF POINTS AND AUTHORITIES

For the reasons set forth below and in accordance with the plea agreement, the government recommends a sentence for defendant Kelly James Morrow of 30 years imprisonment, lifetime supervised release, and a \$200 special assessment. In addition, pursuant to 18 U.S.C. § 3664(d)(5), the government requests a hearing no later than 90 days after the sentencing hearing for final determination of victim losses and restitution.

I. FACTUAL BACKGROUND

On May 26, 2015, defendant Kelly James Morrow ("defendant") was stopped at LAX while traveling from Asia to Arizona. He had in his luggage a laptop computer and other digital devices that contained thousands of images of child pornography. His collection included over 60,000 pictures and videos downloaded from the internet of the sexual exploitation of children as young as toddlers. But, more seriously, defendant also had in his possession thousands of homemade pictures and videos of boys defendant had been systematically sexually abusing while living in China. In fact, for years, while holding himself out in public as a friend and mentor to "Eric," "Wade," "Jack," "Jake," and other village children,¹ defendant was taking lewd photographs of the boys, who were under 12 years old at the time, and recording videos of himself performing sex acts on them. Defendant thus compounded the tragedy of their abuse by collecting and saving these images on his computer.

¹ For example, in Facebook posts from the same time period, defendant posted pictures of himself with the boys, meeting his brother and at the golf course where defendant worked, speaking in familial terms of their relationship, calling them "my boys" and referring to himself as their "uncle." (See Complaint, ¶ 7.)

1 On April 7, 2016, pursuant to a binding plea agreement,
2 defendant pled guilty to a two-count First Superseding Information
3 charging him with Sexual Exploitation of Children outside the United
4 States and Possession of Child Pornography, in violation of 18
5 U.S.C. §§ 2251(c)(1), (c)(2)(A), (c)(2)(B) and 2252A(a)(5)(B),
6 (b)(2), respectively.

7 **II. PRE-SENTENCE REPORT AND SENTENCING GUIDELINE CALCULATIONS**

8 On July 11, 2016, the United States Probation Office ("USPO")
9 disclosed its Revised Pre-Sentence Investigation Report ("PSR"),
10 which calculated defendant's total offense level as 44, his criminal
11 history category as category I, and his advisory guideline range as
12 50 years' imprisonment. However, in their plea agreement, the
13 parties calculated defendant's total offense level as 40 and his
14 advisory guideline range as 292-365 months. To the extent that the
15 USPO's calculation differs from the guideline calculation agreed
16 upon by the parties, the government objects to the PSR and adopts
17 the guideline calculations set forth in the plea agreement.

18 **III. GOVERNMENT'S SENTENCING POSITION**

19 For the reasons set forth below and pursuant to the terms of
20 the parties' binding plea agreement, the government recommends a
21 guideline sentence of 360-months imprisonment, lifetime supervised
22 release, and a mandatory special assessment of \$200. The
23 government's proposed sentence is reasonable and accords with the
24 factors set forth in 18 U.S.C. § 3553(a).

25 The seriousness of defendant's crime cannot be overstated.
26 Defendant is a sexual predator who preyed on vulnerable victims -
27 young boys - by befriending them before abusing both their trust and
28 their bodies. By his own admission, defendant took advantage of his

1 relationship with the boys and their families - a relationship that
2 was, on its surface, supportive and nurturing - for his sexual
3 gratification and, even worse, he chose to document and preserve
4 this abuse by: creating thousands of photographs that depicted the
5 boys naked or barely clothed in sexualized positions, often while
6 the boys were engaged in otherwise innocent activity (such as
7 watching TV, playing video games or swimming); recording videos of
8 himself engaging in sex acts with the boys; and saving these images
9 and videos as part of the sizeable child pornography collection on
10 his computer.

11 No less serious than his production of child pornography is
12 defendant's massive collection of downloaded child pornography
13 images and videos, graphic depictions of the sexual exploitation of
14 children as young as toddlers. His decision to collect and view
15 those images of sexual abuse re-victimized every child depicted in
16 every photo while his willingness to find and download these images
17 from the internet fed a global market that not only encourages the
18 abuse of more children, but also the memorialization and
19 dissemination of that abuse. The harm this trade causes children is
20 immeasurable and irreparable, and defendant, though he did not
21 commit the acts himself with these victims, nevertheless bears
22 responsibility for his contribution to their suffering. See PSR ¶
23 16; United States v. Boos, 127 F.3d 1207, 1210 (9th Cir. 1997).

24 Defendant's conduct demonstrates that he presents an ongoing
25 danger to the community and to the children around him - even after
26 leaving China, defendant continued his predatory behavior, taking
27 exploitative pictures of K.T. during a trip to the United States -
28 and has victimized numerous children, not only the ones identified

1 in the papers in this case, but the hundreds of exploited children
2 depicted in his collection. Any sentence imposed must reflect the
3 gravity of defendant's crime. Accordingly, the government
4 recommends a guideline sentence of 30 years as a sentence that is
5 sufficient but not greater than necessary to account for the nature
6 of the crime, deter defendant and others from committing similar
7 crimes, protect the public from defendant and promote respect for
8 the laws protecting children from this kind of harm.

9 In addition, the government's proposed sentence properly
10 accounts for defendant's history and characteristics. As set forth
11 in defendant's papers and the PSR, defendant had a difficult
12 upbringing, including abuse by an older man, who - like defendant -
13 preyed on vulnerable young boys, and his personal and criminal
14 history demonstrates an ongoing struggle with substance abuse.
15 These are undoubtedly contributed to defendant's conduct here and
16 are, accordingly, important considerations for this Court when
17 determining his sentence. However, although defendant's personal
18 history certainly helps to explain his behavior, it cannot excuse
19 it. Defendant may be a victim himself, but he must also be held
20 accountable for his decision to victimize others. Defendant did
21 more than just repeat a pattern of abuse. He watched and collected
22 pictures and movies of the rape and molestation of thousands of
23 children; and he himself molested and performed oral sex on boys,
24 while preserving his bad acts with his camera. Defendant has
25 created a legacy of pain and suffering in others more than equal to
26 his own and any sentence imposed in this case must take that into
27 account, as well as his history.

1 **IV. CONCLUSION**

2 For the foregoing reasons, the government respectfully requests
3 that defendant be sentenced to a term of 360-months' imprisonment, a
4 lifetime term of supervised release, and a \$200 special assessment.
5 In addition, pursuant to 18 U.S.C. § 3664(d)(5), the government
6 requests a hearing no later than 90 days after the sentencing
7 hearing for final determination of victim losses and restitution.